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09/826,256	04/04/2001	Norbert Conrads	PHN 16, 136A	2663

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Corporate Patent Counsel
U.S. Philips Corporation
580 White Plains Road
Tarrytown, NY 10591

EXAMINER

CHURCH, CRAIG E

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Please find below and/or attached an Office communication concerning this application or proceeding.



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BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Serial Number: 826,256
Filing Date: 04/04/01
Appellant(s): Conrads et al

Paper No. 9

John Vodopia
For Appellant

EXAMINER'S ANSWER

This is in response to appellant's brief on appeal filed June 18, 2002.

(1) Real Party In Interest.

A statement identifying the real party in interest is contained in the brief.

(2) Related Appeals and Interferences.

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

(3) Status of Claims.

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final.

No amendment after final has been filed.

(5) Summary of Invention.

The summary of invention contained in the brief is correct.

(6) Issues.

The appellant's statement of the issues in the brief is correct.

(7) Grouping of claims.

The brief states that the claims stand or fall together.

(8) Claims appealed.

The copy of the appealed claims contained in the Appendix to the brief is correct.

(9) *Prior Art of record.*

✓ 5,974,113 Bruijns 10/26/99

(10) *Grounds of Rejection.*

The following ground(s) of rejection are applicable to the appealed claims.

Claims 1, 2 and 4-8 are rejected under 35 U.S.C. § 103 as being unpatentable over Bruijns (5974113). Bruijns teaches an x-ray imaging system comprising source 21, image intensifier 24, sensor arrays 2,3, arithmetic unit 10 (17-19) which calculates image correction values, memory 41 which stores precalculated correction values, image processor 7,8 which calculates a corrected image from a current image and from correction values including dark current correction and display 35. Lines 42-55 of column 7 explain operation of memory 41. Bruijns does not specify that his method is performed to take *delayed charges into consideration*, but the reason for performing correction is not patentably germane to patentability of the claimed structure.

Claims 1, 2 and 4-8 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-3 of U.S. Patent No. 6246746. Although the conflicting claims are not identical, they are not patentably distinct from each other because instant claims are simply subcombinations of claims 1-3 of the patent.

(11) *Response to Argument.*

Bruijns' system includes an image detector that comprises

multiple subdetectors 2 and 3 which may exhibit differences in output signal level (image brightness) due to signal gain and offset differences. Adjustment factors for correcting a given image are acquired by applying a least squares analysis to said image and then using said factors to correct that same image (lines 24-67 of column 2). This is the procedure discussed and argued by appellant, but Bruijns teaches a second technique (ignored by the brief) in which correction factors are gleaned from a previously obtained image, stored in memory 41 and applied to a current image. Lines 42-49 of column 7 explain"

The offset correction term and the gain correction factor are also stored in a memory unit 41. If the correction unit cannot derive a gain correction factor and/or offset correction term from the electronic sub-image signals, for example because images without said bright or dark parts are presented, stored values of the gain correction factor and the offset correction term can be used. The stored values relate, for example, to a previously picked up image...

Without regard for the motivation to perform image correction, Bruijns teaches precisely the same structure defined by claim 1 comprising image sensor matrix (2/3) for deriving an initial image signal from a calibration exposure and an image signal from an x-ray image and a correction unit (40) for deriving a corrected image signal from the initial signal wherein the correction unit (40) includes a memory (41) for storing correction values derived from the calibration image signal and an arithmetic unit (7,8) for computing signal levels of the corrected image signal from signal levels of the initial image signal and some of said correction values (reference numerals taken from Bruijns).

The phrase "in order to take delayed charges into consideration during correction" at the end of claim 1 is a parenthetical expression stating why correction is performed and conveys no structural limitation, not even in the realm of means-plus-function language. Appellant has not responded to this position.

Bruijns does not perform corrections to take delayed charges into consideration, but the reason for performing correction is not patentably germane to patentability of the claimed structure. Nonetheless, Bruijns' procedure would inherently correct from delayed charges since they would be indistinguishable from dark current which Bruijns does correct for.

For the above reasons, it is believed that the rejections should be sustained.

Any inquiry concerning this communication should be directed to Examiner Church at telephone number (703) 308-4861.

Craig E. Church

CRAIG E. CHURCH
Senior Examiner
ART UNIT 2882

conferees

✓
Robert Kim SPE 2882

OC
Olik Chaudhuri SPE 2823